

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SAMUEL H. WONG,

Plaintiff,

v.

THE BOEING COMPANY,

Defendants.

No. C18-0597-JCC

STIPULATED PROTECTIVE
ORDER

**STIPULATED PROTECTIVE ORDER REGARDING
CONFIDENTIALITY OF DISCOVERY MATERIAL**

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following stipulated protective order. The parties acknowledge that this agreement is consistent with Local Civil Rule 26(c). It does not confer blanket protection on all disclosures or responses to discovery, the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles, and it does not presumptively entitle parties to file confidential information under seal.

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1 2. “CONFIDENTIAL” MATERIAL

2 “Confidential” material shall include the following documents and tangible things
3 produced or otherwise exchanged: Plaintiff’s financial, medical and other personal
4 information, confidential Boeing policies and procedures not generally available to Defendant’s
5 non-management employees, personnel information concerning individuals not party to this
6 action, documents concerning proprietary information and technology and other related
7 documents.

8 3. SCOPE

9 The protections conferred by this agreement cover not only confidential material (as
10 defined above), but also (1) any information copied or extracted from confidential material; (2)
11 all copies, excerpts, summaries, or compilations of confidential material; and (3) any testimony,
12 conversations, or presentations by parties or their counsel that might reveal confidential
13 material. However, the protections conferred by this agreement do not cover information that is
14 in the public domain or becomes part of the public domain through trial or otherwise.

15 4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

16 4.1 Basic Principles. A receiving party may use confidential material that is
17 disclosed or produced by another party or by a non-party in connection with this case only for
18 prosecuting, defending, or attempting to settle this litigation. Confidential material may be
19 disclosed only to the categories of persons and under the conditions described in this
20 agreement. Confidential material must be stored and maintained by a receiving party at a
21 location and in a secure manner that ensures that access is limited to the persons authorized
22 under this agreement.
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1 4.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise
2 ordered by the Court or permitted in writing by the designating party, a receiving party may
3 disclose any confidential material only to:

4 (a) the receiving party’s counsel of record in this action, as well as
5 employees of counsel to whom it is reasonably necessary to disclose the information for this
6 litigation;

7 (b) the officers, directors, and employees (including in house counsel) of the
8 receiving party to whom disclosure is reasonably necessary for this litigation;
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10 (c) experts and consultants to whom disclosure is reasonably necessary for
11 this litigation and who have signed the “Acknowledgment and Agreement to Be Bound”
12 (Exhibit A), which includes each such person’s clerical and support staff;

13 (d) the Court, court personnel, and court reporters and their staff;

14 (e) copy or imaging services retained by counsel to assist in the duplication
15 of confidential material, provided that counsel for the party retaining the copy or imaging
16 service instructs the service not to disclose any confidential material to third parties and
17 immediately return all originals and copies of any confidential material;
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19 (f) witnesses or potential witnesses in the action to whom disclosure is
20 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be
21 Bound” (Exhibit A), unless otherwise agreed by the designating party or ordered by the Court.
22 Pages of transcribed deposition testimony or exhibits to depositions that reveal confidential
23 material must be separately bound by the court reporter and may not be disclosed to anyone
24 except as permitted under this agreement;
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26 (g) the author or recipient of a document containing the information or a
27 custodian or other person who otherwise possessed or knew the information;

1 (h) the videographer who videotapes Confidential Information at a
2 deposition in this litigation;

3 (i) any mediator or discovery referee in this litigation, and employees and
4 personnel of said mediator or discovery referee;

5 (j) any other individuals agreed to in writing by the designated parties.

6 4.3 Filing Confidential Material. Before filing confidential material or discussing or
7 referencing such material in court filings, the filing party shall confer with the designating
8 party, in accordance with Local Civil Rule 5(g)(3)(A), to determine whether the designating
9 party will remove the confidential designation, whether the document can be redacted, or
10 whether a motion to seal or stipulation and proposed order is warranted. Local Civil Rule 5(g)
11 sets forth the procedures that must be followed and the standards that will be applied when a
12 party seeks permission from the Court to file material under seal. A party who seeks to
13 maintain the confidentiality of its information must satisfy the requirements of Local Civil Rule
14 5(g)(3)(B), even if it is not the party filing the motion to seal. Failure to satisfy this
15 requirement will result in the motion to seal being denied, in accordance with the strong
16 presumption of public access to the Court's files.

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18 5. DESIGNATING PROTECTED MATERIAL

19 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each
20 party or non-party that designates information or items for protection under this agreement
21 must take care to limit any such designation to specific material that qualifies under the
22 appropriate standards. The designating party must designate for protection only those parts of
23 material, documents, items, or oral or written communications that qualify, so that other
24 portions of the material, documents, items, or communications for which protection is not
25 warranted are not swept unjustifiably within the ambit of this agreement.
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1 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
2 shown to be clearly unjustified or that have been made for an improper purpose (e.g., to
3 unnecessarily encumber or delay the case development process or to impose unnecessary
4 expenses and burdens on other parties) may expose the designating party to sanctions.

5 If it comes to a designating party's attention that information or items that it designated
6 for protection do not qualify for protection, the designating party must promptly notify all other
7 parties that he/it is withdrawing the mistaken designation.
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9 5.2 Manner and Timing of Designations. Except as otherwise provided in this
10 agreement (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or
11 ordered, disclosure or discovery material that qualifies for protection under this agreement must
12 be clearly so designated before or when the material is disclosed or produced.

13 (a) Information in documentary form: (e.g., paper or electronic documents
14 and deposition exhibits, but excluding transcripts of depositions or other pretrial or trial
15 proceedings), the designating party must affix the word "CONFIDENTIAL" to each page that
16 contains confidential material. If only a portion or portions of the material on a page qualifies
17 for protection, the producing party also must clearly identify the protected portion(s) (e.g., by
18 making appropriate markings in the margins).
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20 (b) Testimony given in deposition or in other pretrial or trial proceedings:
21 the parties must identify on the record, during the deposition, hearing or other proceeding, all
22 protected testimony, without prejudice to their right to so designate other testimony after
23 reviewing the transcript. Any party or non-party may, within fifteen days after receiving a
24 deposition transcript, designate portions of the transcript, or exhibits thereto, as confidential. If
25 a party desires to protect confidential information at trial, the issue should be addressed during
26 the pre-trial conference.
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1 (c) Other tangible items: the producing party must affix in a prominent place
2 on the exterior of the container or containers in which the information or item is stored the
3 word "CONFIDENTIAL." If only a portion or portions of the information or item warrant
4 protection, the producing party, to the extent practicable, shall identify the protected portion(s).

5 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
6 designate qualified information or items does not, standing alone, waive the designating party's
7 right to secure protection under this agreement for such material. Upon timely correction of a
8 designation, the receiving party must make reasonable efforts to ensure that the material is
9 treated in accordance with the provisions of this agreement.
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11 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

12 6.1 Timing of Challenges. Any party may challenge a designation of confidentiality
13 at any time. Unless a prompt challenge to a designating party's confidentiality designation is
14 necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens, or a
15 significant disruption or delay of the litigation, a party does not waive its right to challenge a
16 confidentiality designation by electing not to mount a challenge promptly after the original
17 designation is disclosed.
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19 6.2 Meet and Confer. The parties must make every attempt to resolve any dispute
20 regarding confidential designations without court involvement. Any motion regarding
21 confidential designations or for a protective order must include a certification, in the motion or
22 in a declaration or affidavit, that the movant has engaged, or reasonably attempted to engage in
23 a good faith meet and confer conference with other affected parties in an effort to resolve the
24 dispute without court action. The certification must list the date, manner, and participants to the
25 conference. A good faith effort to confer requires a face-to-face meeting or a telephone
26 conference.
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1 6.3 Judicial Intervention. If the parties cannot resolve a challenge without court
2 intervention, the designating party may file and serve a motion to retain confidentiality under
3 Local Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable). The burden of
4 persuasion in any such motion shall be on the designating party. Frivolous challenges, and
5 those made for an improper purpose (e.g., to harass or impose unnecessary expenses and
6 burdens on other parties) may expose the challenging party to sanctions. All parties shall
7 continue to maintain the material in question as confidential until the Court rules on the
8 challenge.
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10 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
11 LITIGATION

12 If a party is served with a subpoena or a court order issued in other litigation that
13 compels disclosure of any information or items designated in this action as
14 “CONFIDENTIAL,” that party must:

15 (a) promptly notify the designating party in writing and include a copy of
16 the subpoena or court order;

17 (b) promptly notify in writing the party who caused the subpoena or order to
18 issue in the other litigation that some or all of the material covered by the subpoena or order is
19 subject to this agreement. Such notification shall include a copy of this agreement; and
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21 (c) cooperate with respect to all reasonable procedures sought to be pursued
22 by the designating party whose confidential material may be affected.

23 8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

24 If a receiving party learns that, by inadvertence or otherwise, he/it has disclosed
25 confidential material to any person or in any circumstance not authorized under this agreement,
26 the receiving party must immediately (a) notify in writing the designating party of the
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1 unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the
2 protected material, (c) inform the person or persons to whom unauthorized disclosures were
3 made of all the terms of this agreement, and (d) request that such person or persons execute the
4 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

5 9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
6 MATERIAL

7 Nothing in this order shall be deemed to be a limit or waiver of the attorney-client
8 privilege, the work product doctrine, or any other relevant privilege. Further, inadvertent
9 production of privileged information shall not waive the privilege. If privileged information is
10 inadvertently produced, the recipient agrees that, upon request from the producing party, he/it
11 shall promptly return all copies of documents containing the privileged information, delete any
12 versions of the documents containing the privileged information on any database or computer
13 filing system it maintains, and make no use of the privileged information in accordance with
14 Federal Rule of Civil Procedure 26(b)(5)(B).
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16 10. NON TERMINATION AND RETURN OF DOCUMENTS

17 Within 60 days after the termination of this action, including all appeals, each receiving
18 party must return all confidential material to the producing party, including all copies, extracts
19 and summaries thereof. Alternatively, the parties may agree upon appropriate methods of
20 destruction.
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22 Notwithstanding this provision, counsel is entitled to retain one archival copy of all
23 documents filed with the Court, trial, deposition, and hearing transcripts, correspondence,
24 deposition and trial exhibits, expert reports, attorney work product, and consultant and expert
25 work product, even if such materials contain confidential material.
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1 The confidentiality obligations imposed by this agreement shall remain in effect until a
2 designating party agrees otherwise in writing or a court orders otherwise.

3 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

4 DATED: January 25, 2019

5 SIGNED: /s/ Timothy J. Pauley

6 Attorney for Plaintiff

7 DATED: January 25, 2019

8 SIGNED: /s/ Laurence A. Shapero

9 Attorney for Defendant

10 PURSUANT TO STIPULATION, IT IS SO ORDERED.

11 DATED this 30th day of January 2019.

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John C. Coughenour
UNITED STATES DISTRICT JUDGE

EXHIBIT A
ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____
_____ [print or type full address], declare under penalty of perjury that I have read in its
entirety and understand the Stipulated Protective Order that was issued by the United States
District Court for the Western District of Washington on _____ in the case *Samuel H.*
Wong v. The Boeing Company, No. 18-cv-00597-JCC. I agree to comply with and to be bound
by all the terms of this Stipulated Protective Order and I understand and acknowledge that
failure to so comply could expose me to sanctions and punishment in the nature of contempt. I
solemnly promise that I will not disclose in any manner any information or item that is subject
to this Stipulated Protective Order to any person or entity except in strict compliance with the
provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the
Western District of Washington for the purpose of enforcing the terms of this Stipulated
Protective Order, even if such enforcement proceedings occur after termination of this action.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____